

Office of the Secretary of the Treasury

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report thereof which will be forwarded to the Director of Practice. Any other person possessing information concerning violations or disreputable conduct may make a report thereof to the Director of Practice or to any officer or employee of the Bureau.

(b) *Institution of proceeding.* When the Director of Practice has reason to believe that any attorney, certified public accountant, or enrolled practitioner has violated any provisions of the laws or regulations governing practice before the Bureau, he or she may reprimand the person or institute a proceeding for the disbarment or suspension of that person. The proceeding will be instituted by a complaint which names the respondent and is signed by the Director of Practice and filed in his or her office. Except in cases of willfulness, or when time, the nature of the proceeding, or the public interest does not permit, the Director of Practice may not institute a proceeding until he or she has called to the attention of the proposed respondent, in writing, facts or conduct which warrant institution of a proceeding, and has accorded the proposed respondent the opportunity to demonstrate or achieve compliance with all lawful requirements.

§ 8.54 Conferences.

(a) *General.* The Director of Practice may confer with an attorney, certified public accountant, or enrolled practitioner concerning allegations of misconduct whether or not a proceeding for disbarment or suspension has been instituted. If a conference results in a stipulation in connection with a proceeding in which that person is the respondent, the stipulation may be entered in the record at the instance of either party to the proceeding.

(b) *Resignation or voluntary suspension.* An attorney, certified public accountant, or enrolled practitioner, in order to avoid the institution or conclusion of a disbarment or suspension proceeding, may offer his or her consent to suspension from practice before the Bureau. An enrolled practitioner may also offer a resignation. The Director of Practice, at his or her discretion, may accept the offered resignation of an enrolled practitioner and may suspend an attorney, certified

public accountant, or enrolled practitioner in accordance with the consent offered.

§ 8.55 Contents of complaint.

(a) *Charges.* A complaint will give a plain and concise description of the allegations which constitute the basis for the proceeding. A complaint will be deemed sufficient if it fairly informs the respondent of the charges to that he or she is able to prepare a defense.

(b) *Demand for answer.* The complaint will give notification of the place and time prescribed for the filing of an answer by the respondent; that time will be not less than 15 days from the date of service of the complaint. Notice will be given that a decision by default may be rendered against the respondent if the complaint is not answered as required.

§ 8.56 Service of complaint and other papers.

(a) *Complaint.* A copy of the complaint may be served upon the respondent by certified mail or by first-class mail. The copy of the complaint may be delivered to the respondent or the respondent's attorney or agent of record either in person or by leaving it at the office or place of business of the respondent, attorney or agent, or the complaint may be delivered in any manner which has been agreed to by the respondent. If the service is by certified mail, the post office receipt signed by or on behalf of the respondent will be proof of service. If the certified matter is not claimed or accepted by the respondent and is returned undelivered, complete service may be made upon the respondent by mailing the complaint to him or her by first-class mail, addressed to the respondent at the address under which he or she is enrolled or at the last address known to the Director of Practice. If service is made upon the respondent or the respondent's attorney or agent in person, or by leaving the complaint at the office or place of business of the respondent, attorney or agent, the verified return by the person making service, setting forth the manner of service, will be proof of service.

(b) *Service of other papers.* Any paper other than the complaint may be

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served upon an attorney, certified public accountant, or enrolled practitioner as provided in paragraph (a) of this section, or by mailing the paper by first-class mail to the respondent at the last address known to the Director of Practice, or by mailing the paper by first-class mail to the respondent's attorney or agent of record. This mailing will constitute complete service. Notices may be served upon the respondent or his attorney or agent by telegram.

(c) *Filing of papers.* When the filing of a paper is required or permitted in connection with a disbarment or suspension proceeding, and the place of filing is not specified by this subpart or by rule or order of the Administrative Law Judge, the papers will be filed with the Director of Practice, Treasury Department, Washington, DC 20220. All papers will be filed in duplicate.

§8.57 Answer.

(a) *Filing.* The respondent shall file the answer in writing within the time specified in the complaint or notice of institution of the proceeding, unless on application the time is extended by the Director of Practice or the Administrative Law Judge. The respondent shall file the answer in duplicate with the director of Practice.

(b) *Contents.* The respondent shall include in the answer a statement of facts which constitute the grounds of defense, and shall specifically admit or deny each allegation set forth in the complaint, except that the respondent shall not deny a material allegation in the complaint which he or she knows to be true, or state that he or she is without sufficient information to form a belief when in fact the respondent possesses that information. The respondent may also state affirmatively special matters of defense.

(c) *Failure to deny or answer allegations in the complaint.* Every allegation in the complaint which is not denied in the answer is deemed to be admitted and may be considered as proven, and no further evidence in respect of that allegation need be adduced at a hearing. Failure to file an answer within the time prescribed in the notice to the respondent, except as the time for answer is extended by the Director of Practice or the Administrative Law

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Judge, will constitute an admission of the allegations of the complaint and a waiver of hearing, and the Administrative Law Judge may make a decision by default without a hearing or further procedure.

(d) *Reply by Director of Practice.* No reply to the respondent's answer is required, and new matter in the answer will be deemed to be denied, but the Director of Practice may file a reply at his or her discretion or at the request of the Administrative Law Judge.

§8.58 Supplemental charges.

If it appears that the respondent in his or her answer, falsely and in bad faith, denies a material allegation of fact in the complaint or states that the respondent has no knowledge sufficient to form a belief, when he or she in fact possesses that information, or if it appears that the respondent has knowingly introduced false testimony during proceedings for his or her disbarment or suspension, the Director of Practice may file supplemental charges against the respondent. These supplemental charges may be tried with other charges in the case, provided the respondent is given due notice and is afforded an opportunity to prepare to a defense to them.

§8.59 Proof; variance; amendment of pleadings.

In the case of a variance between the allegations in a pleading, the Administrative Law Judge may order or authorize amendment of the pleading to conform to the evidence. The party who would otherwise be prejudiced by the amendment will be given reasonable opportunity to meet the allegation of the pleading as amended, and the Administrative Law Judge shall make findings on an issue presented by the pleadings as so amended.

§8.60 Motions and requests.

Motions and requests may be filed with the Director of Practice or with the Administrative Law Judge.

§8.61 Representation.

A respondent or proposed respondent may appear in person or be represented by counsel or other representative who need not be enrolled to practice before